IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 26.09.2007

Coram:-

The Hon'ble Mr. Justice P.D.DINAKARAN
and
The Hon'ble Mr. Justice R.REGUPATHI

Habeas Corpus Petition No.915 of 2007

Saravanan ... Petitioner

vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Govt.,
Prohibition and Excise Department,
Chennai 600 009.

2. Commissioner of Police,
Greater Chennai, Chennai. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a writ of Habeas Corpus call for the records relating to the detenues detention order passed by the second repondent in his order No.85 of 2007 dated 3.3.2007 approved by the first respondent and set aside the same and produce the detenue Saravanan now detained in Central Prison II, Puzhal, chennai before this Hon'ble court and set him at liberty as stated therein.

For Petitioner : Mr.N.Ramu
For Respondents : Mr.P.Kumaresan,
Additional Public Prosecutor.

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O R D E R

(Delivered by R.REGUPATHI, J.)

The petitioner by name Saravanan challenges the impugned order of detention, dated 03.03.2007, detaining him as 'Goonda' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

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2. The order of detention, dated 03.03.2007, came to be passed on the basis of the ground case in Crime No.27 of 2007, for alleged commission of offences under Sections 332, 336, 427, 307 and 506 (ii) IPC. The allegation is that, on 25.02.2007, at 17.00 hours, Thiru.Ravi, Sub Inspector of Police, Law and Order, N-2 Kasimedu Police Station, received reliable information that the petitioner herein/absconding accused in Crime No.23 of 2007 is available at Kummalamman Koil Street Bus Stop and immediately, he rushed to the spot along with police party. On seeing them, the petitioner tried to escape and when a Constable chased him and tried to apprehend him, he picked up cool drink bottles from a nearby shop and, uttering filthy language, started hurling the bottles. As a result of his wild activities, the normalcy in the area was greatly affected and the public ran to safer places out of fear of danger to their lives and properties, and the nearby shops were shuttered. In the incident, he also tried to strangulate the neck of Head Constable by name Joseph. Ultimately, the police apprehended him. The case, as referred to above, has been registered on the file of the Inspector of Police, N2 Kasimedu Police Station Police Station, on the basis of the Special Report lodged by the Sub Inspector of Police. The Detaining Authority, taking note of three adverse cases pending against the detenu and considering his activities, prejudicial to the maintenance of public order, passed the detention order against him.

3. In this Petition, the petitioner seeks for the issuance of a writ of Habeas Corpus to call for the records relating to the detention order passed against him by the second respondent in his Order No.85 of 2007, dated 03.03.2007, approved by the first respondent, set aside the same, produce him before this Court and set him at liberty.

4. We have perused the materials available on record and considered the submissions made by the counsel appearing on either side.

5. On examining the records, we find that, while making remand requisition before the XVI Metropolitan Magistrate, George Town, Chennai, the Sponsoring Authority referred to adverse case No.3 in Cr. No.23 of 2007 and also the ground case in Cr. No.27 of 2006, however, remand order was passed only in respect of the ground case. Apart from that, the detention order states that there is real possibility of the detenu coming out on bail by filing bail application, while the fact remains that there are no details available on record to show whether or not the detenu was remanded in respect of the said adverse case also by independent orders of the Magistrate. Therefore, we are of the view that the subjective satisfaction arrived at by the Detaining Authority is vitiated as a result of non-application of mind on the part of the Detaining Authority to the above fact. Consequently, the impugned order of detention is liable to be quashed .

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Accordingly, the Habeas Corpus Petition is allowed and the order of detention passed by the second respondent in the proceedings dated 03.03.2007 against the petitioner/detenu is quashed the and the detenu is directed to be set at liberty forthwith from custody unless he is required in connection with any other case or cause.

sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Govt.,
   Prohibition & Excise Department,
   Secretariat,
   Chennai 600 009.

2. The Commissioner of Police,
   Greater Chennai,
   Egmore,
   Chennai 600 008.

3. The Public Prosecutor,
   High Court, Madras.

4. The Superintendent,
   Certral Prison II,
   Puzhal, Chennai.

5. The Joint Secretary to Government
   Public (Law & Order) Department
   Fort St., George , Chennai.9.

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VC(CO)
RD 11.10.07

HCP No.915 of 2007.

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